

that she “understands that this proceeding will be dismissed and cannot be reinstated at a later date.” [Id.]. Under Rule 42(b) of the FRAP, before an appeal has been docketed, the district court may dismiss an appeal on the appellant’s motion with notice to all parties. Fed. R. App. P. 42(b).

Because Plaintiff appealed the Court’s original Order dismissing Plaintiff’s Complaint and because Plaintiff cites the Federal Rule of Appellate Procedure on dismissal, rather than the applicable Rule of Civil Procedure, the Court seeks clarification from the Plaintiff before the Court will rule on Plaintiff’s Motion.


If Plaintiff intends to dismiss the above-captioned case with this Court, the Plaintiff should resubmit her Motion to Dismiss and the motion should be made pursuant to Federal Rule of Civil Procedure 41(a)(2). If the Plaintiff does not intend to dismiss the above-captioned case, then Plaintiff shall file a notice withdrawing her Motion to Dismiss [Doc. 26].

IT IS THEREFORE ORDERED that:

Plaintiff shall either file a motion to dismiss in accordance with the terms of this Order or Plaintiff shall file a notice of withdrawal with the Court withdrawing her Motion to Dismiss [Doc. 26].

IT IS SO ORDERED.

Signed: June 11, 2019


Frank D. Whitney
Chief United States District Judge 